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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,706	09/12/2003	Thomas O. Holtey	16128BAUS01U	8232
34645	7590	12/11/2008		
Anderson Gorecki & Manaras, LLP			EXAMINER	
Attn: John C. Gorecki			TURNER, ASHLEY D	
P.O BOX 553				
CARLISLE, MA 01741			ART UNIT	PAPER NUMBER
			2454	
			NOTIFICATION DATE	DELIVERY MODE
			12/11/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/661,706	<b>Applicant(s)</b> HOLTEY, THOMAS O.
	<b>Examiner</b> ASHLEY D. TURNER	<b>Art Unit</b> 2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 September 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1448)  
Paper No(s)/Mail Date 10/31/2003

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Objections***

The Examiner withdraws the objections of claim 9 so Applicant's arguments are moot.

***Claim Rejections - 35 USC § 101***

The Examiner withdraws the rejection of claims 1-6 so Applicant's arguments are moot.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 15 are rejected under 35 U.S.C 103(a) as being unpatentable over Sumida (US 4,912,703) and in view of Sawada (US 5,596,390)

Referring to claim 1, a method for selectively reading counter information in a network device the method comprising the steps of setting a first ripeness indicator associated with a value of a

first counter the first ripeness indicator indicating that a value of the first counter has reached a particular value; reading the first counter in response to setting of the first ripeness indicator (Abstract lines 2-9). Sumida did not disclose to determine the value of the first counter, the first counter information associated with a statistic of traffic being handled by the network device. The general concept of to determine the value of the first counter, the first counter information associated with a statistic of traffic being handled by the network device is well known in the art as taught by Sawada. Sawada discloses to determine the value of the first counter, the first counter information associated with a statistic of traffic being handled by the network device. The general concept of to determine the value of the first counter, the first counter information associated with a statistic of traffic being handled by the network device (FIG. 20 shows a statistics and trouble estimation routine to be executed by the CPU 11 of the copier. This routine is called and started when the output of any one of the sensors 114, 115 and 113 and electrometer 111 exceeds its second limit value and counted by the corresponding counter. First, the CPU 11 writes the date Dn of counting in the corresponding time information memory. Then, the CPU 11 determines whether or not an alarm should be reported (designated time). If the answer of this decision is positive, the CPU 11 reads the count Nn of the counter and the date Dn stored in the associated time information memory, produces a difference between the count Nn of the date Dn and the count (Nn-1) of the previous date (Dn-1), and then stores the difference.) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumida to include to determine the value of the first counter, the first counter information associated with a statistic of traffic being handled by the network device. The general concept of to determine the

value of the first counter, the first counter information associated with a statistic of traffic being handled by the network device in order to enable a counter to be used.

Referring to claim 2, Sumida and Sawada discloses all the limitations of claim 2 which is described above. Sumida further discloses resetting the first ripeness indicator to a default value i.e. predetermine limit (Abstract lines 8-9).

Referring to claim 3, Sumida and Sawada discloses all the limitations of claim 3 which is described above. Sumida further discloses comprising reading at least a second counter i.e. retransmission counter in response to setting of the first ripeness indicator. (Abstract lines 5-17).

Referring to claim 4, Sumida and Sawada disclose all the limitations of claim 4 which is described above. Sumida further discloses setting the first ripeness indicator when a second counter reaches a particular value (Abstract lines 9-13).

Referring to claim 5, Sumida and Sawada disclose all the limitations of claim 5 which is described above. Sumida further discloses dynamically adjusting the particular value (Col. 4 lines 46-51 If the region designation A after incrementing by region count 22 exceeds nine in the embodiment of Fig. 3, the region designation A is reset to an initial value of zero.)

Referring to claim 6, Sumida and Sawada disclose all the limitations of claim 6 which is described above. Sumida further discloses wherein the counter is configured to measure at last

one aspect of data traffic received by the network device i.e. bus line from a communications network i.e. I/O interface. (Col. 4 lines 1-5), (Col. 5 lines 44-51), (Col. 5 line 62 –64).

Referring to claim 7, Sumida disclose all the limitations of claim 7 which is described above. Sumida further discloses counting, by the network device, data traffic received by the network device; and utilizing the first counter to record at least one aspect of the data traffic received by the network device. (Col. 4 lines 21-24 The traffic amount counter computes the traffic amount number  $N_t$  corresponding to the amount of broadcast data present on the transmission line during a unit time period  $T_s$ ) (Col. 4 lines 56-65)

Referring to claim 8, Sumida discloses a network device, comprising: a forwarding engine configured to process data traffic received by the network device (Col 4. lines 46-50); a plurality of counters configured to monitor aspects of data traffic received by the network device (Col.7 lines 59- 66). Sumida did not discloses a plurality of ripeness indicators, each of the ripeness indicators being associated with one or more the counters, each of the ripeness indicators being indicative of a fullness level of the one or more counters has exceeded a particular level; and control logic configured to harvest information from the one or more counters associated with a ripeness indicator once that ripeness indicator has been set. The general concept of a plurality of ripeness indicators, each of the ripeness indicators being associated with one or more the counters, each of the ripeness indicators being indicative of a fullness level of the one or more counters has exceeded a particular level; and control logic configured to harvest information from the one or more counters associated with a ripeness indicator once that ripeness indicator

has been set is well known in the art as taught by Sawada. Sawada discloses a plurality of ripeness indicators, each of the ripeness indicators being associated with one or more the counters, each of the ripeness indicators being indicative of a fullness level of the one or more counters has exceeded a particular level; and control logic configured to harvest information from the one or more counters associated with a ripeness indicator once that ripeness indicator has been set. FIG. 20 shows a statistics and trouble estimation routine to be executed by the CPU 11 of the copier. This routine is called and started when the output of any one of the sensors 114, 115 and 113 and electrometer 111 exceeds its second limit value and counted by the corresponding counter. First, the CPU 11 writes the date  $D_n$  of counting in the corresponding time information memory. Then, the CPU 11 determines whether or not an alarm should be reported (designated time). If the answer of this decision is positive, the CPU 11 reads the count  $N_n$  of the counter and the date  $D_n$  stored in the associated time information memory, produces a difference between the count  $N_n$  of the date  $D_n$  and the count ( $N_{n-1}$ ) of the previous date ( $D_{n-1}$ ), and then stores the difference.) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumdia to include a plurality of ripeness indicators, each of the ripeness indicators being associated with one or more the counters, each of the ripeness indicators being indicative of a fullness level of the one or more counters has exceeded a particular level; and control logic configured to harvest information from the one or more counters associated with a ripeness indicator once that ripeness indicator has been set. in order to enable a counter to be used.

Referring to claim 9, Sumida and Sawada discloses all the limitations of claim 9 which is described above. Sumida further discloses the control logic is configured to read the ripeness indicators (Abstract 5-7), ascertain which counters are ripe for harvesting, and cause the counters associated with those ripeness indicators to be harvested (Abstract 9-13).

Referring to claim 15, Sumida and Sawada discloses all the limitations of claim 15, which is described above. Sumida also discloses a statistics coprocessor configured to interface with said counters (Col. 5 lines 45-51) and said control logic to enable meaningful statistics to be generated from values harvested from counters (Col. 5 lines 36-45).

Referring to claim 16 Sumida and Sawada discloses all the limitations of claim 16 which is described above. Sumida also discloses reading at least the second counter in response to setting of the ripeness indicator. (Col. 4 lines 21-24 The traffic amount counter computes the traffic amount number  $N_t$  corresponding to the amount of broadcast data present on the transmission line during a unit time period  $T$ .) (Col. 4 lines 56-65)

7. Claim 10 is rejected under 35 U.S.C 103(a) as being unpatentable over Sumida (US 4,912,703) in view of Sawada (US 5,596,390) further in view of Ching (US 4,095,052)

Referring to claim 10, Sumida and Sawada discloses all the limitation of claim 10 which is described above. Sumida did not disclose comprise an array of bits, each bit representing at one

of the counters. The general concept of having an array of bits, each bit representing at one of the counters is well known in the art as taught by Ching. Ching discloses array of bits, each bit representing at one of the counters (Col. 13 lines 66 –68). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumida to include array of bits, each bit representing at one of the counters in order to enable a counter to be used.

8. Claim 11 is rejected under 35 U.S.C 103(a) as being unpatentable over Sumida (US 4,912,703) in view of Sawada (US 5,596,390) further in view of Obremski (US 6,388,930 B1)

Referring to claim 11, Sumida and Sawada discloses all the limitations of claim 11 which is described above. Sumida did not disclose subsets of said bits represent at least one of said counters. The general concept of having subsets of said bits represent at least one of said counters is well known in the art taught by Obremski. Obremski discloses subsets of said bits represent at least one of said counters (Col 3 lines 30-32). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumida to include subsets of said bits represent at least one of said counters in order to enable a counter to be used.

9. Claim 14 is rejected under 35 U.S.C 103(a) as being unpatentable over Sumida (US 4,912,703) in view of Sawada (US 5,596,390) further in view of Patra (US 6,816,489 B1)

Referring to claim 14, Sumida and Sawada discloses all the limitations of claim 14, which is described above. Sumida did not disclose a switch fabric connected to the forwarding engine. The general concept of having a switch fabric connected to the forwarding engine is well known in the art as taught by Patra et al. Patra discloses a switch fabric connected to the forwarding engine (Col. 12 claim 7 lines 1-3 engine connected to a switch fabric). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumida to include a switch fabric connected to the forwarding engine in order to process packets received.

*Response to Arguments*

Applicant's arguments filed on 9/10/2008 have been fully considered but they are deemed moot in view of the new grounds of rejections.

*Conclusion*

Arguments are deemed moot in view of the new grounds of rejection necessitated by the amendment.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashley D. Turner whose telephone number is 571-270-1603. The examiner can normally be reached on Monday thru Friday 7:30a.m.- 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ashley D Turner  
Examiner  
Art Unit 2154

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2154

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